

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Giansante	Team: Squad #14	CCRB Case #: 201604671	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/11/2016 11:40 AM	Location of Incident: Rogers Avenue and Bergen Street	Precinct: 77	18 Mo. SOL 11/11/2017	EO SOL 11/11/2017	
Date/Time CV Reported Mon, 05/23/2016 2:55 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/31/2016 10:54 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Keenen Adamsedwards	10378	953617	077 PCT
2. POM David Lamarre	01841	947929	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Keenen Adamsedwards	Abuse: Police Officer Keenen Adams-Edwards stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM David Lamarre	Abuse: Police Officer David Lamarre stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Keenen Adamsedwards	Abuse: Police Officer Keenen Adams-Edwards frisked § 87(2)(b)	
D.POM Keenen Adamsedwards	Abuse: Police Officer Keenen Adams-Edwards searched § 87(2)(b)	
E.POM David Lamarre	Abuse: Police Officer David Lamarre searched the vehicle in which § 87(2)(b) was an occupant.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On May 23, 2016, § 87(2)(b) filed the following complaint by phone with IAB, generating original log number 2016-18366. The CCRB received the complaint on May 31, 2016.

On May 11, 2016, at approximately 11:40 a.m., § 87(2)(b) was driving westbound on Bergen Street between Nostrand Avenue and Rogers Avenue in Brooklyn. Police Officer Keenen Adams-Edwards and Police Officer David Lamarre of the 77th Precinct stopped § 87(2)(b)'s vehicle near the intersection of Bergen Street and Rogers Avenue because his vehicle had tinted windows (**Allegations A and B**). PO Adams-Edwards asked § 87(2)(b) if he had anything in the vehicle and asked if he could search it. § 87(2)(b) refused. PO Adams-Edwards ordered § 87(2)(b) to exit the vehicle and § 87(2)(b) complied. PO Adams-Edwards frisked and searched his person as soon as he exited (**Allegations C and D**). PO Lamarre searched inside the vehicle (**Allegation E**). The officers spoke briefly to § 87(2)(b) and PO Adams-Edwards discussed the possibility of § 87(2)(b) earning money for providing information regarding firearms. No summonses or arrests resulted from the incident. § 87(2)(g), § 87(4-b)

§ 87(2)(b) surreptitiously filmed a short portion of the incident with his cellphone. This video is embedded below (BR01), and a transcript of the dialogue captured on the recording can be found in the case file (BR02):



2016-09-20_15-03-31.mp4

This case was submitted four weeks past the 90-day benchmark in part because of delays in scheduling PO Lamarre and delays in drafting the Board Recommendation Report.

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation because § 87(2)(b) stated that he intended to file a lawsuit regarding the incident.
- On September 23, 2016, the NYC Comptroller's office confirmed that § 87(2)(b) had not filed a Notice of Claim regarding the incident (BR03).

[illegible]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]

- PO Adams-Edwards has been a member of the NYPD for three years and has had no previous CCRB allegations (see officer history). In case #201607192, which was filed after this case and is still open, PO Adams-Edwards is the subject of a stop allegation.
- PO David Lamarre has been a member of the NYPD for seven years and has had 11 previous CCRB allegations involving six cases with no substantiated allegations and § 87(2)(g)

Findings and Recommendations

Allegations not pleaded

- **Discourtesy:** The video footage shows that PO Adams-Edwards used profanity when speaking with § 87(2)(b). However, § 87(2)(b) did not complain about PO Adams-Edwards speaking discourteously to him, and the context provided by the video footage shows that PO Adams-Edwards used the words colloquially, that they were not directed at § 87(2)(b) and that his statements were not meant to be discourteous. As a result, an allegation of discourtesy was not pleaded against PO Adams-Edwards.

- **Allegation A—Abuse of Authority: Police Officer Keenen Adams-Edwards stopped the vehicle in which § 87(2)(b) was an occupant.**

Allegation B—Abuse of Authority: Police Officer David Lamarre stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that the officers stopped § 87(2)(b)'s vehicle after seeing that it had tinted windows.

PO Adams-Edwards recounted that all four cabin windows were tinted, and that he could tell simply from looking at them that they were illegal (BR06). PO Lamarre similarly stated that he could tell from a mere visual observation that the windows were too dark to be legal (BR07). The officers did not measure the tint level of the windows and did not issue any summonses for the observed infraction.

In CCRB case #201604665, regarding an incident which occurred on January 21, 2016, § 87(2)(b) admitted that his vehicle's windows were tinted. During that incident, officers measured the tint level of the windows and found that they had a light transmittance of 37%. § 87(2)(b)'s vehicle was impounded after that incident, and he resumed possession of it in early April. The windows were unchanged at the time of the incident.

The side cabin windows of a vehicle must have a light transmittance of no less than 70%. NY Vehicle and Traffic Law, §375 12-a (BR08).

§ 87(2)(b), § 87(2)(g)

- **Allegation C—Abuse of Authority: Police Officer Keenen Adams-Edwards frisked**

§ 87(2)(b)

It is undisputed that PO Adams-Edwards frisked § 87(2)(b)

§ 87(2)(b) recounted that PO Adams-Edwards approached his window and remarked, "Hey, I see you got your car back" (BR09). PO Adams-Edwards told § 87(2)(b) something about his license plates "coming back with guns." PO Adams-Edwards asked § 87(2)(b) if he had anything in his vehicle, and § 87(2)(b) said no. PO Adams-Edwards asked if he could search the car and § 87(2)(b) refused. PO Adams-Edwards then ordered § 87(2)(b) to get out. § 87(2)(b)

§ 87(2)(b) protested that he was injured and gestured to his crutch. PO Adams-Edwards told him he had to exit so the officers could make sure that he did not have anything in the vehicle. As soon as § 87(2)(b) exited, PO Adams-Edwards patted his pockets and waistband.

PO Adams-Edwards initially denied having any recollection of this incident, and said he could not recall conducting any vehicle stops at the location on the date of the incident. PO Adams-Edwards still could not recall the incident after being presented with a brief narrative which included the contents of his conversation with § 87(2)(b) as seen in the video footage. However, once he viewed the entirety of the video footage, PO Adams-Edwards said that it had refreshed his recollection of the incident.

PO Adams-Edwards recounted that he ran the vehicle's license plate after stopping it but before approaching it on foot, and that the information he obtained indicated that the vehicle had been seized. He said he could not really recall exactly what he learned from his in-car terminal, but knew he thought it was possible that the vehicle was supposed to have been impounded. When later asked if he had any further suspicions regarding the vehicle, he said, "Like I said, when I ran the car, it said the car was seized. It was supposed to be in the pound. And then I see it on the street. So I thought there was other things that was wrong with the vehicle. That's the reason why—that's the reason my suspicion rose with the whole incident." He later said, after reiterating that he could not really recall, that he learned that the vehicle was seized "in light of an investigation" which he believed involved attempted murder.

PO Adams-Edwards admitted that he did a "quick frisk" of § 87(2)(b) as soon as § 87(2)(b) walked exited the vehicle. PO Adams-Edwards specifically recalled frisking § 87(2)(b)'s pants pockets and waistband. PO Adams-Edwards said that he performed the frisk to search for weapons and out of concern for his and PO Lamarre's safety. When asked why he was concerned for his safety, PO Adams-Edwards repeated that he had learned that the vehicle was used in the commission of a crime which he believed to be attempted murder. As a result, he did not know § 87(2)(b)'s "motives" or what he was "capable of." When asked if he suspected that § 87(2)(b) had a weapon on his person, PO Adams-Edwards repeated that there was a connection between § 87(2)(b)'s license plate and attempted murder, and that he therefore thought that "anything was possible." PO Adams-Edwards ultimately said that he did believe that § 87(2)(b) possessed a weapon, but could provide no additional reasons for that suspicion other than that § 87(2)(b)'s vehicle had been or should have been seized in connection to an investigation regarding attempted murder. PO Adams-Edwards confirmed that he made a visual observation of § 87(2)(b)'s person before frisking him, and admitted that he did not observe any bulges or strange shapes.

PO Lamarre also recounted running § 87(2)(b)'s license plate on his in-car terminal before approaching the vehicle. He learned that the vehicle had been vouchered and impounded by the NYPD at some point. However, he could not recall if he learned why it had been impounded, whether it was still supposed to be impounded, or any information related to any criminal court cases. PO Lamarre could not recall if PO Adams-Edwards frisked § 87(2)(b). When asked if he made any observations during the incident which led him to suspect that § 87(2)(b) had a weapon on his person, PO Lamarre said, "I don't remember." During his CCRB interview, PO Lamarre said that he would ask a motorist for permission to search his or her person if he saw "something suspicious," and confirmed that he typically would not ask to search a motorist unless he saw something suspicious. He did not recount ever asking § 87(2)(b) if he could search his person. However, when asked if he saw anything suspicious during the incident, PO Lamarre said, "I don't remember at all."

As mentioned above, § 87(2)(b)'s vehicle was seized and impounded subsequent to an arrest in January 2016. § 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b), § 87(2)(a) 160.50

A frisk is permissible only if an officer possesses a particularized reasonable suspicion that an individual is armed. People v. Gonzalez, 295 A.D.2d 183 (2002) (BR10).

§ 87(2)(b), § 87(2)(g)

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- **Allegation D—Abuse of Authority: Police Officer Keenen Adams-Edwards searched**

§ 87(2)(b)

§ 87(2)(b) alleged that PO Adams-Edwards reached inside his pants pockets immediately after frisking him. § 87(2)(b) had his phone, keys, wallet, and cash in his pockets. PO Adams-Edwards allegedly partially removed the items from the pockets so he could view them before returning them to the pockets.

PO Adams-Edwards denied that he entered § 87(2)(b)'s pockets and removed objects from them. PO Lamarre could not recall if he ever saw PO Adams-Edwards search § 87(2)(b)'s pockets.

§ 87(2)(b), § 87(2)(g)

- **Allegation E—Abuse of Authority: Police Officer David Lamarre searched the vehicle in which § 87(2)(b) was an occupant.**

It is undisputed that PO Lamarre searched § 87(2)(b)'s vehicle. PO Lamarre admitted that he did so, and he can be seen in the video footage leaning inside § 87(2)(b)'s vehicle through the open rear passenger door (BR15).



2016-09-26_17-32-18.mp4

As previously stated, § 87(2)(b) recounted that PO Adams-Edwards asked him for permission to search the vehicle and § 87(2)(b) refused. PO Adams-Edwards then instructed him to exit the vehicle, and PO Lamarre then entered the vehicle after § 87(2)(b) exited. § 87(2)(b) specifically recounted that PO Lamarre opened the glove compartment.

PO Lamarre said that he spoke to § 87(2)(b) upon reaching the vehicle, but could not recall which side of the vehicle he approached. He recounted that he asked § 87(2)(b) to exit the vehicle because that is “something he normally does” during traffic stops. When asked why he regularly asks motorists to exit their vehicles during vehicle stops, PO Lamarre said, “Yeah, like to see if—I ask them if I can look in the car. If they say yeah, I’ll be like, ‘Okay, no problem.”

Step out and I'll look in the car.' And that's it." PO Lamarre stated that he asked § 87(2)(b) if he could look inside the vehicle, and § 87(2)(b) replied, "Yeah, sure." When asked why he requested § 87(2)(b)'s permission to search the vehicle, PO Lamarre said that he regularly asks motorists if he can search their vehicles during traffic stops. He denied having any specific reason for wanting to search § 87(2)(b)'s vehicle.

PO Lamarre thought that he probably entered § 87(2)(b)'s vehicle through multiple doors during the search. When asked to describe the search, PO Lamarre said, "I looked in the car and that was it." He said he could not recall if he touched anything inside the vehicle, but when asked if he opened the glove compartment, he said, "Probably did." When asked if he had a specific reason for opening the glove compartment, PO Lamarre replied, "Not sure." He could not recall if he opened the vehicle's center console. He described the search as "very quick" and lasting only a "couple of seconds." He denied that § 87(2)(b) ever protested him searching the vehicle.

When asked what he was searching for in the vehicle, PO Lamarre said, "I don't know. Contraband, weapons, probably." When asked if he had any reason to suspect that the vehicle contained weapons or contraband, PO Lamarre replied, "Don't remember."

PO Adams-Edwards initially claimed to be unable to recall which window he approached, but later described himself giving § 87(2)(b) the "common spiel" in which he asked § 87(2)(b) for his license and registration and explained the reason for the stop. He also identified himself as the officer who instructed § 87(2)(b) to exit the vehicle. He could not recall if he asked § 87(2)(b) for permission to search the vehicle. He also could not recall if he ever searched in the vehicle. He did not recall PO Lamarre having searched the vehicle independent of having seen him do so on the video footage.

§ 87(2)(b), § 87(2)(g)

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In the absence of voluntary consent, a vehicle search must be founded upon probable cause that the vehicle contains a weapon, contraband, or evidence of a crime. People v. Keesler, 16 Misc. 3d 45 (App. Term, 2nd Dept. 2007) (BR11). An officer breaching the plane of a vehicle doorway constitutes a search if the vehicle's occupants have been removed. People v. Hernandez, 238 A.D.2d 131 (1st Dept. 1997) (BR12).

§ 87(2)(b), § 87(2)(g)

- Horizontal bar chart showing the percentage of respondents who believe that the U.S. should take action to address climate change. The chart shows that 95% of respondents believe the U.S. should take action, with 90% of those respondents believing that the U.S. should take 'strong' action.

Response	Percentage
U.S. should take action	95%
U.S. should take strong action	90%

Investigator:	<hr/>	<u>Daniel Giansante</u>	<hr/>
	Signature	Print	Date
Squad Leader:	<hr/>	<hr/>	<hr/>
	Title/Signature	Print	Date
Reviewer:	<hr/>	<hr/>	<hr/>
	Title/Signature	Print	Date